

DIVISION OF SPECIAL EDUCATION

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Meeting of the State Advisory Council on Students with Special Needs

September 18, 1998
Adams Mark at the Airport
Indianapolis, Indiana

Interpreters: George Perry and Marlene Butler

The meeting was called to order at 9:16 a.m.

Members in Attendance: Mary Ramos, Michael Dalrymple, Liam Grimley, Brett Bollinger, Jackie Pitman, Becky Kirk, Julie Swaim, Cathlene Hardy-Hansen, Ed Kasamis, Kathy Wodicka, Maureen Greer was represented by Callie Bigsbee, Bob Marra, Marcia Johnson, Jeanine Calabria, and Rose Black.

Members Absent: David Schmidt, Carolyn Heier, Elaine Scaife, and Deborah Winchester.

Division Staff Members in Attendance: Lynn Holdheide, Sally Cook, Becky Bowman, Sharon Knoth and Steve Stafford. Dr. Collings from the ISEAS Project also joined the Council meeting.

Minutes from Previous Meeting

Dr. Kasamis moved that the minutes be approved as written. The motion was seconded by Mr. Dalrymple. The motion carried.

IDEA Reauthorization Update

Mr. Marra gave the Council an update of the status of the federal government's promulgation of the final regulations for IDEA '97. It is anticipated that they will be available some time before the end of the year. The Division will "hold" the re-write of Article 7 until the final regulations are available. The Division will keep the Council informed of the status of the federal regulations and the revisions of Article 7.

In light of the delay of the final federal regulations, Mr. Marra asked the Council to consider whether it needs to meet on all of the dates that have tentatively been scheduled. The Council is mandated to meet four times annually. Mr. Marra asked if the Council would like to cancel any of the tentative dates. Dr. Kasamis moved that the Council meet in September, November, February and May. The motion was seconded by Mr. Dalrymple. Dr. Grimley amended the motion to read that the Council will conduct the four statutorily mandated meetings (on dates selected by the Division) and will not hold any meetings prior to January, 1999. Dr. Kasamis approved the amendment. A discussion ensued. The amendment was carried. The amended motion was carried. The next Council meeting will be January 22, 1999. The tentatively

scheduled meeting dates are currently on hold. The February 19, March 19, April 16 and May 21 meetings, if conducted, will be held at the Embassy Suites North.

Dr. Bollinger asked Mr. Marra to discuss what things the LEAs will be held accountable for in light of the fact that the federal regulations have not yet been finalized. The "jump start plans" were developed by the districts in anticipation of federal regulations being finalized prior to the start of the school year. Without final regulations the districts are questioning what they are responsible for. Mr. Marra reported that the Division is working on a document for monitoring districts which should be available soon. The Division anticipates that regional trainings on the monitoring process will occur in late October or early November. These trainings for the local directors will be similar to those conducted on the proposed regulations. It is also anticipated that, between January and April, Division monitoring staff will conduct one day meetings with each director of special education to review the district's plans. Mr. Marra also indicated that the Division has been working with Performance Based Accreditation to see how special education monitoring might "fit" into the PBA monitoring process.

Age of Majority - Transfer of Rights Discussion

Becky and Lynn provided the Council with an overview of the issues regarding the transfer of educational rights to the student at the age of majority, including the results of meetings with other stakeholders. Generally, age 18 is considered the age of majority in Indiana. The reauthorization of IDEA gives each state the right to develop rules in which educational rights transfer to the student upon the age of majority unless the student has been adjudicated incompetent. It also permits the state to develop rules regarding students who have not formally been adjudicated incompetent, but do not have the ability to provide informed consent regarding the educational program. Current Article 7 language confers concurrent rights on the 18 year old student and the parent. According to OSEP, this is not an option under IDEA '97. Therefore, the rights will either have to remain with the parent or be transferred to the student. The Division has invested considerable time researching the issues and discussing them with others and seeks a recommendation from the Council on the issue.

Dr. Kasamis raised the issue of custodial and non-custodial parents and whether both parents must agree in educational decisions. He also asked how "joint custody" impacted the process. "Parent" is defined, however, when a divorce is involved, custodial and non-custodial parents become an issue with which schools struggle. Dr. Kasamis would like to see language on this issue added to the Division's proposal. Mrs. Johnson complimented the committee on their work and their research on what other states have done. She asked for more information on medical decisions and who can make those decisions. Becky indicated that if a physician, "in good faith, does not believe that the patient has the capacity to make decisions regarding medical interventions, he or she may get consent from the health care representative (if one has been appointed), or other family members. Mr. Dalrymple agreed that these types of decisions truly must be made on a case-by-case basis.

Dr. Bollinger brought up issues that could result in problems if the case conference committee were the entity to determine that student didn't have the ability to provide informed consent. One of the issues was whether a due process hearing would be required if there was a disagreement. Becky indicated that OSEP has already indicated that the state's Independent Hearing Officers

cannot be used to settle disputes on this issue. Mrs. Black asked about some type of guidance or procedures on what the district must do in order to determine if a student is competent. There may also be implications regarding educational surrogate parents (ESP). Dr. Bollinger asked if a student could request that an ESP be appointed for them to assist with exercising their educational rights. Becky indicated that yes, it was possible for a student to request someone to assist them - like an ESP - but that individual would serve in an advisory capacity only.

Lynn spoke about training issues and the importance of making sure that families and students are trained in all facets of this topic. Mr. Marra indicated that, as Article 7 is revised, the Division will need to work with various agencies (e.g., FSSA, VR) to ensure that we are training families from the early stages that the student will become the decision-maker upon reaching 18 years of age.

Mr. Dalrymple indicated that one issue not yet addressed is who can raise the issue of a student's ability or inability to make his or her own decisions. Dr. Bollinger asked about adult guardianship. For example, when the school believes that a family is not providing for a child, the school can file a report with Child Protective Services so that an investigation will be done to determine if the child is a Child in Need of Services (CHINS). Dr. Bollinger asked if there is a comparable avenue for adults. Becky indicated that there is an Adult Protective Services (APS) program, but it is structured differently from the CHINS process.

Dr. Grimley asked that Becky and Lynn provide some draft language that the Council could review. Mrs. Kirk asked that the committee's questions be shared with the Council as well (i.e., if you do this, then these questions need to be considered). The question of how many students in the system are between 18 and 21 was also raised.

Indiana Assessment System of Educational Proficiencies (IASEP)

Steve demonstrated the IASEP to the Council. It will be pilot-tested during the 1998-1999 school year. He and Mr. Marra discussed the IASEP and the ISTEP+ and answered questions from the Council.

State Improvement Plan/State Improvement Grant (SIP/SIG)

Dr. Kasamis questioned an item on page 66 regarding the appeal process. Lynn and Sharon advised that the item is misstated - it is a training item, NOT a policy item - and it is a training module for districts to use to assist them in developing procedures for handling/processing appeals for the ISTEP+.

Mrs. Kirk questioned the absence of reference to or inclusion of medicaid waivers in the SIP. It was explained that this is a training grant - not a policy development grant. Lynn addressed the fact that many of Mrs. Kirk's concerns will be addressed via other venues, such as Workforce Development. Lynn also spoke about vocational rehabilitation services and the fact that such services are based on eligibility, not entitlement.

Regarding item (f) on page 23, Mrs. Swaim asked that the Division address the training needs of teachers to know how to work with oral deaf students because none of the HI training programs acknowledge oral deaf training for students. Mrs. Swaim would also like to see the interpreter

training piece address oral training issues for interpreters working with oral deaf students. With the advent of cochlear implants, the issue of linguistic processing information also needs to be addressed. Bowling Green University has a course that addresses oral deaf training needs. Although Ball State says that they teach oral processing, they have all of the internships work with the School for the Deaf. In the teacher preparation part of the SIP/SIG, it was recommended that the Division add some language for oral training for HI teachers. Functional language literacy should also be explored. Liz Ying is an excellent resource for this. She is self-employed and also works with Butler University in oral training issues.

Dr. Grimley moved that the Advisory Council approve the Division's submission of the SIP/SIG. The motion was seconded by Dr. Kasamis. The motion carried.

Dr. Grimley spoke to the fact that the ASHA is also working on a position paper which supports a four-year training program for SLPs.

Mrs. Hardy-Hansen spoke to the issue of AAC and asked if there was any place in the SIP/SIG that addresses Alternative/Augmentative Communication. The direct answer is "no", but there are items in the SIP/SIG which address assistive technology assessment.

Other Business

Dr. Kasamis expressed that he and many of his colleagues are concerned about the upcoming reporting process for ISTEP+. The "new" definition of which students with disabilities will be included in the "diagnostic" column will tremendously impact the Report. It will further persuade and support the agenda of those who wish to move toward a school voucher system. Mr. Dalrymple spoke to the fact that the Division needs to ensure that all students are accounted for and then respond to why the scores truly can't be used in such a manner. A discussion ensued about PBA's use of ISTEP+ scores to assist in distributing funding and ISTEP+ scores in general. It was suggested that the Department of Education needs to be more aggressive in working with the press and media on reporting of ISTEP+ scores.

Dr. Grimley moved to adjourn the meeting. Mrs. Swaim seconded the motion. The motion carried.